

10/1/84

This is a protine day (ok) and I had some shopping to do to get the stove ready for winter, so I've read of what you sent the records before Gesell and the Bresson story only. I see usefulness in both, hence I write after writing the enclosed to Fitzgibbon. Nothing from Hoch today, by the way.

I think you should seek to amend your request of CIA to include existing records of its FOIA requests and compliances, as I indicated earlier when we spoke. It has to have lists to be able to assign numbers and it has to have the equivalent of lists in IFD (Dube's deposition testimony) to know what it has processed and disclosed. So the searching time is not much and the withholding of the names of requesters is not going to take much time, either. At least file the request because the information is going to be necessary whether or not the present Congress passes the ACLU/CIA bill.

The Bresson story in FOIA Update is important and can be useful in fee-waiver and court matters because it gives as first of the matters of "considerable public interest" the JFK assassination when it gives only three by name.

he is also quoted on saying that to comply with FOIA policy the FBI must "ensure the most liberal access."

I read Gesell's Order to order disclosure of what you requested. If you make your request promptly and they defer compliance, after you exhaust your remedies the new case would go to him in any event.

And you have some pretty cogent arguments re the request I suggest with my requests alone. They'll look simpy terrible to him and they'll know it.

I've skimmed the other enclosures related to your suit. It appears that aside from the ACLU's and CIA's lists not being identical by case they also differ with regard to cases affected. Unless I misunderstand the ACLU's position appears to be that lawsuits filed before the cutoff date will be affected. This means, it seems, that the ACLU interprets the legislation to immunize all operational records, even those involved in 1975 litigation. How else can they explain the position that there are cases affected that the CIA does not consider in that category?

It is clear that operational records are involved in the Allen and Hoch cases, Unaffected according to CIA. Yet they are not in Adler's list "III. FOIA Litigations Which May Contain Information in Designated Operational Files and thus Be Affected by Enactment of S. 1324." Unless that bill differs for the ACLU's.

The CIA has not given you its list of affected cases.

The case approach represents defensive thinking. It is in terms of a rich-man's bill, being limited to some of those who could afford to file suit or arrange it. It eliminates most requesters who filed requests under a law guaranteeing their right to know, their access, and they ought not, under any circumstances, be legislative foreclosed. Foreclose the poor only? Who can defend that? Foreclose the trusting, those who took the CIA's word? Who can defend that? Try to make 'em.

I'll read the other case after I catch up on other things. Thanks and

best,